

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JONATHAN TORRES-SANDOVAL,

Defendant.

Case No. CR12-217-RAJ-4

ORDER

**I. INTRODUCTION**

This matter comes before the Court on Defendant Jonathan Torres-Sandoval's Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2). Dkt. #174. For the reasons that follow, the Court **DENIES** Defendant's motion.

**II. BACKGROUND**

On June 11, 2013, Defendant pled guilty to two counts: Conspiracy to Distribute Methamphetamine, in violation of 21 U.S.C. §§ 841(b)(1)(C) ("Count 1"); and Possession of a Firearm in Furtherance of Drug Trafficking Crime, in violation of 18 U.S.C. § 924(c) ("Count 5"). Dkt. # 124. At Defendant's sentencing hearing, his adjusted base offense level was 35 with a criminal history level of I. Dkt. # 144. The applicable guideline calculation suggested a sentencing range of 168-210 months' imprisonment for Count 1, and five years' consecutive imprisonment for Count 5. *Id.* Defendant, the Government, and the U.S. Probation Office jointly recommended a term of 96 months' imprisonment. Dkt. ## 145-147. On November 1, 2013, Defendant was

1 sentenced to 36 months for Count 1 and 60 months for Count 5, for a total term of 96  
2 months' imprisonment. Dkt. # 147. On June 27, 2016, Defendant filed a Motion to  
3 Correct Sentence pursuant to 18 U.S.C. § 2255. Dkt. # 173. The Court denied the  
4 Motion on March 20, 2017. Defendant now moves to reduce his sentence pursuant to 18  
5 U.S.C. § 3582(c)(2). Dkt. #174. Defendant contends that he is entitled to a sentence  
6 reduction based on Amendment 782 to the United States Sentencing Guidelines  
7 ("USSG").

### 8 III. DISCUSSION

9 On April 30, 2014, the Sentencing Commission promulgated Amendment 782,  
10 revising the Drug Quantity Table and chemical quality tables, which amended the  
11 guideline ranges for crimes involving narcotics. On July 18, 2014, the Sentencing  
12 Commission voted to make Amendment 782 retroactively applicable to previously  
13 sentenced prisoners, and the amendment became effective on November 1, 2014. Thus,  
14 under 18 U.S.C. § 3582(c)(2), previously sentenced prisoners may move to modify their  
15 sentences on the basis of the amendment. 18 U.S.C. § 3582(c)(2) allows for a defendant  
16 to move to reduce a term of imprisonment when that term is based on a sentencing range  
17 that has been subsequently lowered by the Sentencing Commission.

18 For a defendant to qualify for a sentence reduction under 18 U.S.C. § 3582(c)(2),  
19 two conditions are necessary: "(1) the defendant must have been sentenced to a term of  
20 imprisonment based on a sentencing range that has been lowered by a retroactively  
21 applicable Guidelines amendment; and (2) the sentence reduction sought must be  
22 consistent with the Sentencing Commission's applicable policy statements." *Zapata*, No.  
23 CR07-0343-JLR, 2016 WL 7336159, at \*1 (citing *United States v. Waters*, 771 F.3d 679,  
24 680 (9th Cir. 2014) (per curiam)). The Court lacks jurisdiction to reduce a defendant's  
25 sentence if either of these conditions are not met. *United States v. Wesson*, 583 F.3d 728,  
26 730 (9th Cir. 2009). The Guidelines reinforce this restriction by specifying that the Court  
27 is precluded from reducing a sentence where a retroactive amendment does not lower the

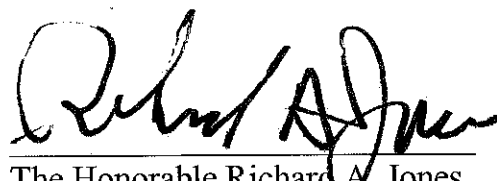
1 defendant's sentencing range. USSG § 1B1.10(a)(2)(B). Further, except for defendants  
2 who received a sentence reduction based on substantial assistance to the United States,  
3 "the court shall not reduce the defendant's term of imprisonment under 18 U.S.C. §  
4 3582(c)(2) and this policy statement to a term that is less than the minimum of the  
5 amended guideline range." USSG § 1B1.10(b)(2).

6 Per the USSG, Defendant's advisory sentencing range for Count 1 was 168 to 210  
7 months. Dkt. # 145. The advisory sentencing range for Count 5 was five years of  
8 consecutive imprisonment, the minimum term of imprisonment required by statute. *Id.*  
9 As noted above, the Court imposed 36 months' imprisonment for Count 1 and 60  
10 months' for Count 5, to be served consecutively, for a total term of 96 months'  
11 imprisonment. Dkt. # 147. Applying Amendment 782 to the Guidelines, Defendant's  
12 adjusted offense level would be reduced from 35 to 33, which results in an amended  
13 Guideline range of 135-168 month's imprisonment. The range for Count 5 remains the  
14 same, with a statutory minimum of five years' consecutive imprisonment. As  
15 Defendant's current sentence falls below the new sentencing range, it will remain  
16 unchanged.

#### 17 IV. CONCLUSION

18 For the reasons stated above, the Court **DENIES** Defendant's Motion for  
19 Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2). Dkt. #174.

20 DATED this <sup>25<sup>th</sup></sup>~~26<sup>th</sup>~~ day of May, 2018.  
21 <sup>23<sup>rd</sup></sup>

22   
23 The Honorable Richard A. Jones  
24 United States District Judge  
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